Wild Animal Welfare White Paper: consultation response form

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Consultation questions

The questions below are grouped by section. Please respond to the questions that are relevant to you. You do not need to answer every question.

UK General Data Protection Regulation (UK GDPR)

We will publish a summary of consultation responses and may publish some responses in full. Responses are published anonymously and names and contact details are not included unless you request otherwise when submitting your response. Please do not include any information that could identify you or other individuals in your response.
Please note that responses may be subject to Freedom of Information legislation and, in some circumstances, information may need to be disclosed. Where responses are published, they will be retained indefinitely. Any personal data held separately by the Welsh Government will be retained for no more than three years.

Proposals to introduce a seal disturbance offence

Question 1: Do you agree that Wales should introduce an offence of intentionally disturbing seals?

Yes

Question 2: Do you agree that Wales should introduce an offence of recklessly disturbing seals?

Yes

Question 3: Do you agree that the proposed offence should apply wherever seals occur in Wales, rather than only at designated locations such as haul out sites?

Yes

Question 4: Do you agree that exceptions to the offence should exist in certain circumstances? If so, are the specific exceptions in section 10 of the Wildlife and Countryside Act 1981 appropriate and sufficient for a seal disturbance offence? If not, why?

Yes

Question 5: Do you agree that licences should be available in certain limited circumstances to permit activities that would otherwise constitute a disturbance offence? If so, do you consider the licensing grounds in section 16 of the Wildlife and Countryside Act 1981 appropriate and sufficient? If not, why?

Yes - we agree that section 16 licences should be available and that the grounds in section 16 are sufficient.

Question 6: Do you have any views in relation to the likely costs, benefits, impacts or the implementation or practical operation of the proposal?

No

Question 7: Do you agree that Wales should introduce a statutory close season for hare, meaning it would be unlawful to intentionally kill, injure or take hare during the specified period?

We do not support a statutory close season for hares.

We would note that the consultation document has not provided evidence that the current legislative framework and management of hares in Wales is problematic either in terms of hare population numbers or welfare. Where is the evidence that hares are being shot in Wales during the main breeding season other than for preventing agricultural damage? Even with a statutory close season it will still need to be possible to manage hares during the close season in order to prevent agricultural damage in some areas, as the consultation document recognises.

The lack of data on hare shooting during most of the period under consideration raises the question as to how the Welsh Government can reasonably conclude there is a legitimate animal welfare interest in the proposed measure: in other words, that there is a problem that needs to be solved.

As the Impact Assessment highlights, there are a number of uncertainties around the proposal including *"the scale of hare shooting activity during the proposed close season period"* and *"the magnitude of potential welfare benefits arising from the proposals"*. It also states that *"the assessment also assumes compliance costs will be limited because many individuals and organisations likely to be affected already operate in accordance with good practice guidance intended to…avoid the killing of hare during the breeding season."*

In the absence of a clear evidence base and an assumption that those who shoot hares already do so *"in accordance with best practice"* it is hard to understand the subsequent statement that *"whilst these uncertainties affect the precision with which impacts can be quantified, Welsh Government considers they do not undermine the underlying rationale for intervention."* A proposed close season for hares is then predicated on the assumption of a problem that has not been evidenced, where the current management of hares follows best practice, and where even with a close season hares will still need to be killed in the close season for the same reasons they are now. The only outcome of a statutory close season would seem to be a further burden on land managers by the imposition of yet more licensing with no obvious benefit to individual hare welfare or the overall hare population.

The Hares Preservation Act 1892 already creates an effective close season by prohibiting the sale of hare meat during their main breeding season. The Game and Wildlife Conservation Trust (GWCT) was made the Biodiversity Action Plan champion for Brown Hares in 1998. Its view is that the current combination of law and self-regulation means that the principle that controlling species in their peak breeding should be avoided unless genuinely essential and unavoidable is already being followed.

The GWCT has rightly noted that: *"Closed seasons are not appropriate in a pest control context. Where the aim is to reduce the numbers of a pest species in an area, allowing them full opportunity to reproduce is clearly counter-productive. That is why non-game wildlife species that are at least sometimes pests (e.g. fox, grey squirrel, wood pigeon) do not have closed seasons in the UK, whereas game species do."*

The current de facto close season means that hare populations are prevented from reaching unsustainable levels. Culling avoids the peak breeding season but allows action to be taken at other times where damage is occurring. This approach balances the need to achieve a manageable population while minimising the impact on leveret welfare.

Not only do hares breed year-round but those born in January/February have low survival rates due to factors other than culling. As the GWCT has noted: *"While the intended effect of a closed season may be to safeguard the welfare of dependent young, we note that mortality in leverets is typically high (e.g. 50-75% in Pépin 1989, 71-86% in Marboutin et al. 2003) as a result of bad weather, poor nutrition, predation or disease. Clearly any benefit will be diluted to this extent, because the actual welfare of the leverets that die through these causes is not good..."*

As the GWCT has stated: *"We have spoken to farmers to gauge their likely reactions to the proposed closed season. Given the difficulties presented by hare coursing and now with a potential threat to their income most indicate that under the proposals they would cull hard in the open season as a means of insurance. At present they can wait and gauge the extent of the problem and respond accordingly."*

It will be much easier to cull harder and earlier rather than having to rely on some exemption such as a licence at a later date in response to damage being caused. The impact of the fear of illegal hare poachers should not be underestimated.

In wildlife management there is a balance to be struck between the welfare of individuals and the welfare of the population. It would be regrettable if a statutory close season increased the amount of control having to be undertaken at other times, negatively impacting overall population health.

It is hard to see how introducing a statutory close season different from the de facto one currently observed will improve hare welfare at either population or individual level. A statutory close season will create a situation that neither assists the hare nor those who manage them. The current arrangements are flexible and, most importantly, they work.

The Countryside Alliance believes that, in prohibiting commercial sale throughout most of the breeding season, the Hares Preservation Act 1892 is already sufficient to meet the policy objective of a proposed close season, and introducing one in addition would only harm the legitimate interest of farmers in protecting their land

and crops by controlling hares occasionally at need. We are also concerned that it might create a perverse incentive to over-shoot hares pre-emptively at other times of the year.

We believe that the current situation allows for proper hare control while also protecting the health of the overall population and minimising the consequences for leverets during the breeding season. In practice a statutory close season would make little, if any, difference in terms of welfare but would result in additional burdens on land managers and risk the overall health of hare populations.

However, if the government does proceed with a statutory close season, then it should follow existing practice, with any close season beginning no earlier than the end of February. Any exceptions or licensing for killing hares in the close season should be simple and easy for land managers to use.

Question 8: Do you agree that Wales should introduce a statutory close season for hare, meaning it would be unlawful to recklessly kill, injure or take hare during the specified period?

As above, we do not support a statutory close season as we do not believe it is necessary to meet the policy objective identified.

However, we recognise that making the offence intentional and reckless is consistent with similar offences in the 1981 Act and that this is proportionate. We do not believe recklessness would overextend liability as to act recklessly one must display gross negligence. Mere carelessness is insufficient.

Question 9: Do you agree with the proposed close season dates of 1 February to 30 September? Please provide reasons for your answer, including any views on alternative dates.

If a close season were to be introduced, then it is essential that it begin no earlier than the end of February, so as to minimise the risk of pre-emptive shooting that would otherwise have been unnecessary and ensure focused culling can still take place in areas where land and crops are at genuine risk. While the legislation may be old, the ban on the sale of hares from 1 March to 31 July acts as an effective close season during the main breeding season as it is not worth farmers and landowners shooting, unless there is a serious reason to do so to prevent agricultural damage.

Question 10: Do you have any views on the effect of the proposed measures upon existing rights of occupiers of land to kill and take hare on their occupied land?

The right of occupiers to take ground game needs to be recognised and protected. The 1880 Ground Game Act (which also includes rabbits in the definition of game) recognises hares as both a game species and a pest species in law. As a game species they are included within sporting rights but as a pest species need to be controllable by persons who may occupy the land but who do not also enjoy the sporting rights. Coupled with the Hares Preservation Act 1892, which prohibits the sale of hares March to July inclusive, the 1880 Act allows necessary control of hares by those who may need to prevent agricultural damage while creating an effective close season. The consultation fails to recognise the position of hares as

both game and pest. If a statutory close season is introduced then any arrangements to take hares during the close season and any licensing arrangements must apply to occupiers.

Question 11: Do you agree that exceptions should be available in certain circumstances? If so, do you consider the specific exceptions in section 10 of the Wildlife and Countryside Act 1981 appropriate and sufficient for a introducing an offence of intentionally or recklessly killing, injuring or taking hare during the close season? If not, why?

The hare has a complex status in law being both a game species and an agricultural pest. This explains why it is dealt with in law differently from both other game species and other pest species. If there is a statutory close season there must be exceptions allowing for hares to be killed. We agree that the exceptions in section 10 of the Wildlife and Countryside Act 1981 are appropriate and assume that hare would then be added to schedule 5 in respect of section 9 to which the section 10 exceptions apply - specifically 10(4). We reiterate that we do not agree that a statutory close season is necessary or desirable.

Question: 12: Do you agree that licences should be available in certain limited circumstances to permit activities that would otherwise constitute an offence? If so, do you consider the licensing grounds in section 16 of the Wildlife and Countryside Act 1981 appropriate and sufficient? If not, why?

While not supportive of a statutory close season we do believe that the ability to license the control of hares, in addition to the section 10 exceptions, should be possible. We consider that the licensing grounds in section 16 of the 1981 Act are sufficient and appropriate. We would note that licences in respect of hares should be capable of being individual, class or general. It is a concern that a close season could create problems for land managers needing to respond at short notice to prevent or reduce agricultural damage. The exception at 10(4), and the point at which an activity would require a licence and 10(4) could not be relied on, is not entirely clear and may leave land managers unsure of how they can address hare damage or the threat of hare damage. As such, general or class licensing should be considered and if an individual licence is required then it should be a quick and simple process.

Question 13: Do you agree that Wales should make connected offences restricting what a person can do with a hare (at any time) if it is unlawfully taken, injured or killed during the close season in line with other protections in the 1981 Act? If not, why?

The Hares Preservation Act 1892 has been effective in creating an effective close season for hares, while still allowing essential management in the main breeding season. We can see merit in making the sale of a hare that has been unlawfully killed in the close season an offence. This would remove any incentive to kill hares in that period, as the 1892 Act does now.

Question 14: Do you have any views in relation to the likely costs, benefits, impacts or the implementation or practical operation of the proposal?

As stated above, we do not believe the evidence supports a statutory closed season; the law works well at present and recognises that in law the hare is both a game species and agricultural pest. The introduction of a statutory close season will not in our view improve individual welfare and may harm overall hare numbers. It will, however, create uncertainty for those wishing to manage hares and involve the additional burden of yet more licensing. We have no specific cost data to provide.

Regulatory Impact Assessment and Integrated Impact Assessment

Question 15: Do you have any information or evidence that would be helpful to inform the Regulatory Impact Assessment and/or Integrated Impact Assessment that has been published alongside the White Paper? If so, can you please provide it.

Please select one:

☐ Yes

☐ No

If yes, please summarise the information below

Welsh language questions

Question 16: What, in your opinion, would be the likely effects of a Wild Animal Welfare (Wales) Bill which seeks to introduce a close season for hare and an offence of seal disturbance, on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?

Please select one:
☐ Yes
☐ No

If yes, please summarise the information below or click upload to upload additional documents.

NC

Do you think that there are opportunities to mitigate any adverse effects?

Please select one:
☐ Yes
☐ No

NC

Question 17: In your opinion, could a Wild Animal Welfare (Wales) Bill which seeks to introduce a close season for hare and an offence of seal disturbance be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Please explain your answer:

NC

Question 18: We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations may be made public. Your response will be anonymous.

However, if you would like your name to be published alongside your response, please insert an x in the box.

I agree to my name being published alongside my response to this consultation.	**x**